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Federal Communications Commission
Office of Secretary

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D C. 20554

In the Matter of)
)
Grandfathered Short-Spaced) MM Docket No. 96-120
FM Stations) RM-7651
)
Notice of Proposed Rule Making)

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REPLY COMMENTS OF ODYSSEY COMMUNICATIONS, INC.

Odyssey Communications, Inc. ("Odyssey"), by its attorneys,
respectfully submits these Reply Comments in the above-captioned proceeding. 1/
Odyssey is the licensee of three grandfathered, short-spaced Class A FM stations
which will be affected by the outcome of this proceeding: WRGX(FM), Briarcliff
Manor, New York, KLYY(FM), Arcadia, California, and KWIZ-FM, Santa Ana,
California.

In its initial Comments, Odyssey urged the Commission to adopt its
proposal to eliminate the second- and third-adjacent-channel spacing requirements
for grandfathered stations. 2/ The comments submitted in this proceeding provide

1/ Grandfathered Short-Spaced FM Stations, Notice of Proposed Rulemaking,
MM Docket No. 96-120, RM-7651 (released June 14, 1996) ("NPRM"). The
Commission extended the date for the filing of reply comments in this proceeding
until October 4, 1996. DA 96-1222 (Aug. 2, 1996).

2/ NPRM at ¶¶ 8, 25.

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overwhelming support for the adoption of this proposal. The comments demonstrate in case after case that the elimination of the second- and third-adjacent-channel spacing requirements will serve the public interest by giving grandfathered, short-spaced stations the flexibility to optimize or relocate their facilities. This flexibility is crucial for grandfathered, short-spaced stations to improve service to the public, to adjust to changes in circumstances, and to compete in the marketplace. 3/ Moreover, these benefits will *not* be accompanied by any significant risk of interference. 4/ Accordingly, the Commission should adopt its proposal to eliminate the second- and third-adjacent-channel spacing requirements for grandfathered stations.

In its Comments, Odyssey also encouraged the Commission to reject its proposal to eliminate the agreement policy, 5/ and instead to permit agreements between grandfathered co-channel or first-adjacent-channel short-spaced stations for mutual increases in facilities that serve the public interest. Mutual agreements should not be *required* where otherwise rendered unnecessary by adoption of the

3/ See, e.g., Comments of Media-Com, Inc.; Comments of John J. Davis; Comments of Brown Broadcasting; Comments of Taxi Productions, Inc.; Comments of Jarad Broadcasting; Comments of WYCQ, Inc.; Comments of Chagal Communications, Inc.; Comments of Harold E. Munn; Comments of Mullaney Engineering, Inc.; Comments of the Association of Federal Communications Consulting Engineers; Comments of Joint Petitioners; Comments of Kelsho Radio Group, Inc.; Comments of Compass Radio of San Diego, Inc.

4/ See, e.g., Comments of WYCQ, Inc.; Comments of Taxi Productions, Inc.; Comments of Chagal Communications, Inc.; Comments of Kelsho Radio Group, Inc.; Comments of Compass Radio of San Diego, Inc.

5/ NPRM at ¶¶ 8, 30.

Commission's proposals in this NPRM to establish a new predictive methodology and to eliminate the grandfathered second- and third-adjacent-channel spacing requirements. 6/ However, where adoption of the Commission's proposals does not resolve all of the impediments to optimization or relocation of a station's facilities, mutual agreements between grandfathered co-channel and first-adjacent-channel stations that serve the public interest should be permitted to promote flexibility and enable stations to improve service to the public. 7/ This in turn will serve the Commission's goals in this proceeding.

Odyssey agrees with Kelsho Radio Group, Inc. ("Kelsho") that the Commission in particular should permit commonly-owned grandfathered short-spaced Class A stations to enter into agreements for mutual increases in their facilities. As Kelsho explained, the common owner of two short-spaced radio stations can eliminate interference by synchronizing transmissions. 8/ Mutual agreements will enable commonly-owned, short-spaced stations to provide improved service to abutting areas, and thus to have an opportunity to compete with the high-power, dominant stations in the market.

6/ See Comments of Compass Radio of San Diego, Inc., at 38 (agreement requirement enables competitors to block modifications for competitive or pecuniary reasons).

7/ See, e.g., Comments of Mullaney Engineering, Inc. at 6-7 ("We believe that prohibiting all short spacing agreements is unwise"); Comments of Z Spanish Network, Inc., Engineering Statement, at 3 ("Mutual agreements that improve service and reduce interference should be permitted and encouraged by the Commission"); Comments of Kelsho Radio Group, Inc., at 4-7.

8/ See Comments of Kelsho Radio Group, Inc. at 6-7.

Mutual agreements also should be permitted between a Class A station and any other class FM station that became short-spaced as a result of the 1989 change in the minimum distance spacing requirements for Class A stations. ^{9/} As in the case of pre-1964 grandfathered short-spaced Class A stations, permitting mutual agreements will promote flexibility and enable stations to improve service to the public. The Commission already permits mutual agreements between two Class A stations which became short-spaced as a result of the October 1989 spacing change, 47 C.F.R. 73.213(c)(2), and there is no logical reason to prevent a Class A station from entering the same agreement with another class station in otherwise identical circumstances.

For the above reasons, the public interest will be served by the elimination of the second- and third-adjacent-channel spacing requirements and by permitting mutual agreements between grandfathered short-spaced Class A

^{9/} See Amendment of Part 73 of the Rules to Provide for an Additional FM Station Class (Class C3) and to Increase the Maximum Transmitting Power for Class A FM Stations, Second Report and Order, 4 FCC Rcd 6375 (1989).

stations and between Class A stations that became short-spaced to another station (regardless of class) as a result of the 1989 spacing change.

Respectfully submitted,

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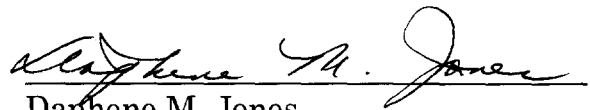
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